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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BO XU

Plaintiff,

vs.

No. 07 C 4919

U.S. CONSULATE GENERAL
GUANGZHOU, CHINA,

Defendant.

MEMORANDUM OPINION AND ORDER

Plaintiff's Chinese fiancée lives in China. She applied for a visa to travel here to get married and was rejected. According to plaintiff, she brought only samples of the correspondence between them to the consular interview because the consulate had led her to believe that was all she needed, not the 700 or so she actually had, and was told she did not have enough evidence of her bona fide relationship to plaintiff. This suit followed.

Defendant moves to dismiss. We reluctantly grant that motion. Plaintiff and his fiancée may well be victims of a bureaucratic snafu, but it is not something we can do anything about. Congress has delegated visa granting abroad to the executive branch, without judicial review – what both parties refer to as consular non-reviewability. Plaintiff contends that does not apply if there had been some law or right violated, but there is no reason to review a decision unless there has been a violation. The concept embraces the notion of no review even though there may have been violations. Plaintiff can request the consulate to take another look (and the effort he has put into this case provides some indicia of his commitment to the relationship), but we cannot help.


JAMES B. MORAN
Senior Judge, U. S. District Court

March 18, 2008.